IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

Bail Appl..No. 6097 of 2006()

CRIME NO.439/2006 OF PARASSALA POLICE STATION.

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PETITIONERS/ACCUSED

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1. LEKSHMI, D/O. NADODI SALEENA,
   MARTHANDAM BUS STAND, PURAMPOKKE VEEDU,
   NALLOOR VILLAGE, VILAVANCODE TALUK,
   KANYAKUMARI DISTRICT.

2. GOWRI, D/O. NADODI SACHU,
   MARTHANDOM BUS STAND, PURAMPOKKE VEEDU,
   NALLOOR VILLAGE, VILAVANCODE TALUK,
   KANYAKUMARI DISTRICT.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING SUB INSPECTOR,
PARASSALA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/11/2006, ALONG WITH BA NO. 6108 OF 2006,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M. JAMES, J.

Bail Application Nos.6097 & 6108 of 2006

Dated this the 9th November, 2006.

O R D E R

I cannot forebear but to state the interesting events that took place in these two bail applications. The facts reveal that the petitioners in these applications are nomades. The address given show that they reside in the bus stand at Marthandam of Kanyakumari District, and even the names show that they are nomades, not having any fixed place of abode.

2. B.A.No.6108/2006 has been preferred by accused 1, 2 and 4 in Crime No.438/2006 of Parassala Police Station, for the offence punishable under Sections 454, 380 and 461 IPC, read with Section 34 IPC. It was alleged that on 23.8.2006, these petitioners who are from Tamilnadu committed theft of gold ornaments worth Rs.4600/= and Rs.20,000/= in cash, in the absence of the inmates of the house.

3. B.A.No. 6097/2006 is preferred by two of the earlier petitioners, for having committed the offence punishable under Sections 454, 380 and 461 IPC, read with Section 34 IPC, in Crime

No.439/2006 of Parassala Police Station. The allegation was that they have committed theft of six grams of gold ornaments worth Rs.4000/=, and four grams of gold ornaments worth Rs.3000/=, also from another house, when the inmates of the house were not present.

4. When the applications came up for consideration, I found the nomadic status of the petitioners. The prosecution allege that they go around the localities, note the convenient houses for committing theft at the convenient time, and indulge in such criminal activities latter. The learned Public Prosecutor hence submitted that the release of the petitioners would prevent the continued trial and disposal of the cases, as they would not be available in any particular place. Further, it is also submitted that the investigation is complete and the final report has already been filed. But the apprehension of the prosecution is that they may not be available to face the trial, once released.

5. In the light of the admitted status of the parties, I have directed the learned counsel appearing for the petitioners to file any document to show that they have any permanent abode or residents in any place, either in Kerala or in Tamil Nadu or else where. Accordingly, the learned counsel has produced electoral identity cards

and also a letter from the local member of the Municipality, one M.S.Sahaya Antony of Nagercoil Municipality, 11th ward, stating that the petitioners are permanent residents of that area, and he knew them for the last 10 years. The said letter has been notarised by a Notary Public of Nagercoil, Tamil Nadu. Relying on it, the learned counsel has submitted that they may be released on bail with such conditions, so that they may be available for trial. However, the learned Public Prosecutor submitted that the solvency certificate of the sureties may be insisted upon.

6. In the above facts situation, I allow these applications, grant bail to the petitioners, and release them from jail, on each one of them executing a bond for Rs.25,000/= (Rupees Twenty Five Thousand only) with two solvent sureties, each for the like sum, to the satisfaction of the Judicial First Class Magistrate Court-II, Neyyattinkara.

7. Before release of the petitioners, the learned Magistrate shall obtain the solvency certificates from the sureties, for the above amount. The learned Magistrate is at liberty to enquire into the genuineness of the certificate, if he has got any doubt on the same.

8. The petitioners shall be available before the court below for facing the trial of the cases.

9. The petitioners shall report before the concerned Investigating Officer, once in a week, on every Saturday,between 10.A.M and 11 A.M, following the next Saturday after the release, till the completion of the trial and disposal of the case.

J.M. JAMES,
JUDGE

nj.